IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 2222 OF 1996

Between:

The Depot Manager, APSRTC,

Siddipet Depot, Siddipet.

..... PETITIONER

AND

1. The Presiding Officer,

Labour Court-II, Hyderabad.

2. Sri P.Krishnaiah s/o late P.Venkaiah,

Conductor, APSRTC, R/o Masaipet (V&P),

Velldurthy Mandal, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Certiorari and quash the Award in ID No. 261 of 1992 passed by the Labour Court-II, Hyderabad, dt 17.4.1995 published vide G.O.Rt. No.1439, dt 7.6.1995.

For the Petitioner: Mr. V.T.M. PRASAD, Standing Counsel

For APSRTC

For the Respondent No.1: Government Pleader for Labour

For the Respondent No.2: None Appeared

The Court Made the Following :

:: ORDER ::

The APSRTC Management, aggrieved by the Award of the Labour Court-II, Hyderabad, dated 17.4.1995 passed in ID No. 261 of 1992, has preferred this writ petition.

The 2nd respondent was working as a Conductor and while he was conducting the bus on the route Siddipet to Dommat on 17.9.986 a surprise check was conducted at stage No.5/6. Certain irregularities were noticed. A charge memo was issued to the 2nd respondent alleging wrong punching of tickets in respect of two passengers found travelling with tickets of Rs.2/- denomination and that a person was found travelling with a ticket of Rs. 1/- denomination said to have been accounted at stage=-2 of the previous trip. After a due process of enquiry, charges were held proved and after a show cause notice dated 10.2.1987 and receipt of explanation from the 2nd respondent, he was removed from service by an order dated 16.3.1987. He, thereupon preferred ID No.261/92 u/Sec.2-A(2) of the Industrial Disputes Act 1947 (for short 'the Act'). The Labour Court had earlier found no infirmity in the procedure of the domestic enquiry and by the impugned order concluded that there was sufficient material to prove the charges alleged against the 2nd respondent. However, taking note of the explanation submitted by the 2nd respondent that the irregularities were the result of his inexperience as Conductor and there was no *mala fide* intention to misappropriate the Corporation funds, came to the conclusion that the punishment of removal was excessive and disproportionate to the gravity of the misconduct he was found guilty of. Accordingly, while directing that the punishment be altered with one of withholding of two increments with cumulative effect, the management was directed to reinstate the workman into service with back wages, continuity of service and all other attendant benefits.

Having concluded that the charges have been established on the basis of sufficient

material adduced at the domestic enquiry, the Labour Court could not have concluded that the explanation of the workman with regard to his inexperience having caused the irregularities, was justified. However, from the charge memo dated 23.9.86 setting out four charges, a compelling inference of allegation of misappropriation of Corporation funds does not appear to have been made. What was alleged is mere issue of wrong tickets in two instances relating to a batch of two passengers in one and one passenger in the other and violation of the rule of "issue and start". Having regard to the nature of the allegations in the charge memo, the explanation of the workman that the irregularity had occurred on account of his inexperience, is a plausible explanation as to the cause of irregularities. On this analysis the conclusions of the Labour Court that the punishment of removal was excessive and disproportionate to the charge held proved against the workman cannot be faulted. However, as the 2nd respondent herein (workman) had violated the mandatory rule of "issue and start" and also appears to have reissued for the down journey a ticket intended to be issued for the up journey, the misconduct he was found guilty of cannot be held to be a minor misconduct and therefore a grave penalty was in order though not the extreme penalty of termination from service.

Having heard learned the Standing Counsel for the petitioner, this court is of the considered view that in the totality of the facts and circumstances of the case and as no malice of the workman has been recorded as having actuated the irregularity in the issuance of tickets but nevertheless having regard to the seriousness of the misconduct alleged and found against him, in particular the violation of the mandatory provision of "issue and start", the relief granted to the workman by the Labour Court, granting not only reinstatement with continuity of service but with full back wages, cannot be sustained. Accordingly while concurring with the Labour Court that withholding of two increments with cumulative effect and reinstatement with continuity of service should be imposed on the 2nd respondent herein, the award to the extent it directs payment of full back wages is set aside. The 2nd respondent shall be entitled to reinstatement into service with continuity of service and other attendant benefits. The back wages due and payable to him shall be restricted to 50% of the amount due and payable on this account. The punishment of removal from service imposed by the management is altered to one of stoppage of two increments with cumulative effect.

The writ petition is disposed of as above. No costs.

Date: 30.09.2004 ----------

Pvsn Justice G.Raghuram

To

1. The Presiding Officer, Labour Court-II,

Hyderabad.

2. The Depot. Manager, APSRTC,

Siddipet Depot, Medak District.

3. Two Copies to the Government Pleader for Labour, High Court

Buildings, Hyderabad. (OUT)

4. 2CD copies